



SCAROLA ZUBATOV SCHAFFZIN PLLC

Richard J.J. Scarola
rjjs@szslaw.com
(212) 757-0007 ext. 1002

March 17, 2023

Hon. Denise L. Cote
United States District Judge
United States District Court — Southern District of New York
United States Courthouse
500 Pearl Street — Room 1910
New York, NY 10007

Re: *Koestler v. Shkreli*, No. 16-cv-7175 (DLC)

Dear Judge Cote:

We represent Dr. Thomas P. Koestler, the Judgment Creditor in this case with Judgment entered on February 6, 2017, in the amount of \$2,614,930 (the “Judgment”), against defendant and Judgment Debtor Martin Shkreli. (Dkt. No. 22) As the Court is aware, by Order dated August 16, 2021 (Dkt. No. 120), the Court appointed a Receiver (Derek C. Abbott) to, among other things (§4) take control of all assets of the Judgment Debtor until the Judgment is satisfied”

“Until the Judgment Debtor has satisfied his obligations to the Judgment Creditor, or to the Receiver or otherwise under this Order, any and all assets or property of the Judgment Debtor... shall be turned over to the Receiver to be held subject to further order of this Court and shall not be returned to the Judgment Debtor until such further Order of this Court (but shall not be sold by the Receiver without further order of this Court).”

To date, the Judgment remains unpaid.

We now write to request that the Court issue an Order or subpoena to the Judgement Debtor Martin Shkreli as set forth below to assist in satisfaction of the Judgment. We represent to the Court that we and the Receiver have communicated about this application to the plaintiffs in *FTC et al. v. Vyera Pharmaceuticals, LLC, et al.*, No. 20-cv-00706-DLC (S.D.N.Y.) (the “FTC Action”), and have their permission, at our request, to represent to Your Honor that the plaintiff Federal Trade Commission (the “FTC”) and plaintiff State Attorneys General do not object to our request (subject to conditions specified below).

Accordingly, on behalf of the Judgment Creditor, and with the Receiver, we ask the Court to direct Mr. Shkreli (by issuance of an Order or by a subpoena to be issued by the Court) to provide Dr. Koestler (through counsel) and the Receiver a copy of all disclosures Mr. Shkreli has made and will make to the FTC and State Attorneys General in connection with the Judgment they have obtained against Mr. Shkreli in the Action. We also ask that the Court

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permit us (as counsel) and the Receiver to attend (virtually or in person), depositions of Mr. Shkreli which those parties may conduct and to have a transcript of those depositions.

The conditions requested by the plaintiffs in the FTC Action are:

1. We and the Receiver will only listen during the deposition. (In other words, we will not raise objections, ask questions, or make statements on the record, other than to identify ourselves at the beginning.)
2. We and the Receiver will make clear that we are asking that the disclosure be made by Mr. Shkreli and not by the FTC or the States.

We would of course abide by those conditions and also any restrictions in the FTC Action on use of the information to be provided to us.

We also ask that Mr. Shkreli be directed to comply within ten (10) days of the Court's Order granting this application, should the Court grant it.

Respectfully submitted,

/s/ Richard J.J. Scarola

Richard J.J. Scarola

By ECF

Copy to the Docket in the FTC Action (By ECF)